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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,498	09/02/2003	Randolf Von Oepen	HO-US005378A	2721
22919	7590	04/07/2006	EXAMINER	
SHINJYU GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			PELLEGRINO, BRIAN E	
			ART UNIT	PAPER NUMBER

3738

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/652,498	VON OEPEN, RANDOLF	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian E. Pellegrino	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3,8,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruiz (6120534) in view of Glastra et al. (EP 0779062). Ruiz discloses (Figs. 2A,2B) a stent configured and arranged to expand with first and second expanding fixing portions **11,12** and a throttle portion **13** coupled to the first and second portions. Ruiz shows (Fig. 3) a catheter **21** having balloons to expand the stent with reduced expandability. Ruiz also shows (Figs. 5B,5C) a liquid impermeable cover **52** on the stent. Ruiz discloses the covering is an elastomeric material, col. 5 lines 47-49. However, Ruiz fails to disclose the expansion is a done by a single balloon. Glastra et al. show (Fig. 6) a stent-catheter arrangement having a balloon **26** with two fully expandable sections **27** and a section of reduced expandability between the expandable sections. It would have been obvious to one of ordinary skill in the art to use a single balloon as taught by Glastra with the stent of Ruiz such that the surgeon has more control in delivering the stent as opposed to manipulating multiple balloons.

Claims 1-3,8,9,13-15 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Glastra et al. (EP 0779062) in view of Jaeger (DE 19509464). Glastra et al. show (Fig. 6) a stent-catheter arrangement having a balloon **26** with two fully expandable sections **27** and a section of reduced expandability between the expandable sections. However, Glastra does not disclose a liquid impermeable cover

over the stent or a stiffening element for forming a reduced expandable section. Jaeger teaches (Fig. 11) a liquid impermeable cover 6 over stent. Jaeger also teaches (Fig. 3) a stiffening element 5 can be used to form a section of reduced expandability. It would have been obvious to one of ordinary skill in the art to use a blood impermeable cover on the stent and a stiffening element as taught by Jaeger with the stent-catheter system of Glastra et al. in order to provide an outer surface that does not allow blood leakage and to provide a throttle portion to increase blood flow to reduce the likelihood of plaque buildup.

Claims 10-12, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glastra (EP 0779062) in view of Jaeger (DE 19509464) as applied to claims 1-3 above, and further in view of Tower (US 5695498). Glastra in view of Jaeger is explained supra. However, Glastra as modified by Jaeger do not disclose the balloon made of stiffened balloon material. Tower discloses that the balloon is formed of stiffened balloon material and that the reduced expandability section is formed during balloon production, col. 3, lines 21-34. It would have been obvious to one of ordinary skill in the art to use stiffened balloon material and produce this reduced expandability section during balloon production as taught by Tower with the catheter-stent system of Glastra as modified by Jaeger in order to strengthen the balloon such that the chance of the balloon collapsing has been greatly reduced.

### ***Response to Arguments***

Applicant's arguments filed 1/13/06 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually,

one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). With respect to the Ruiz/Glastra rejection, it must be noted that the claimed stent structure and cover is disclosed by Ruiz and Applicant has not distinguished any difference between the Ruiz stent and the claims. As mentioned above Glastra's teaching is used as an obvious expedient to simplify the procedure for the surgeon by giving the surgeon control through a single balloon. Applicant has failed to state why one of ordinary skill would not look to reduce the steps of delivering the stent device to be a single inflation, when both references teach a stent with two expanded sections having a reduced expanded section there between. Regarding the Glastra/Jaeger rejection, Jaeger clearly provides a motivation to use with the Glastra apparatus in that it improves the structure and eliminates the risk of blood leakage with the use of the cover. Applicant argues Jaeger fails to disclose the claimed catheter structure. However, this is an irrelevant argument since Jaeger was used for modifications to the stent structure not the catheter.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Pellegrino whose telephone number is 571-272-4756. The examiner can normally be reached on Monday-Thursday from 7am to 4:30pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TC 3700, AU 3738

**BRIAN E. PELLEGRINO**  
**PRIMARY EXAMINER**

